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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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JUAN CARLOS MALDONADO-MEJIA,

Petitioner,

v.

BRIAN E. WILLIAMS, et al.,

Respondents.

Case No. 2:14-cv-01484-APG-VCF

ORDER

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Petitioner appears in this action through appointed counsel.

On May 14, 2014, the Court granted the petitioner's motion to stay and abey and administratively closed this case pending petitioner's exhaustion of his state court remedies. (ECF No. 7). On June 23, 2017, petitioner filed a motion to re-open on the grounds that the Nevada Supreme Court had issued remittitur on his appeal of the denial of his post-conviction petition on May 5, 2017. (ECF No. 8). Good cause appearing, this action is reopened, and the Court now sets a further briefing schedule for this action.

IT IS THEREFORE ORDERED that petitioner's motion to reopen this action (ECF No. 8) is GRANTED.

IT IS FURTHER ORDERED that, as the stay is lifted by this order, the Clerk shall REOPEN THE FILE in this action.

1 IT IS FURTHER ORDERED that the Clerk shall add Adam Paul Laxalt, Nevada
2 Attorney General, as counsel for respondents and shall ELECTRONICALLY SERVE a
3 copy of this order and the amended petition (ECF No. 9) on the respondents.

4 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days
5 following the date of entry of this order within which to answer, or otherwise respond to,
6 the amended petition filed on July 17, 2017 (ECF No. 9).

7 IT IS FURTHER ORDERED that petitioner shall have forty-five (45) days following
8 service of the answer to FILE AND SERVE a reply brief. If a dispositive motion is filed,
9 the parties shall brief the motion in accordance with Local Rule 7-2.

10 IT IS FURTHER ORDERED that any procedural defenses raised by respondents
11 to the counseled amended petition shall be raised together in a single consolidated
12 motion to dismiss. Procedural defenses omitted from such motion to dismiss will be
13 subject to potential waiver. Respondents shall not file a response in this case that
14 consolidates their procedural defenses, if any, with their response on the merits, except
15 pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
16 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall
17 do so within the single motion to dismiss not in the answer; and (b) they shall specifically
18 direct their argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett*
19 *v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
20 including exhaustion, shall be included with the merits in an answer. All procedural
21 defenses, including exhaustion, instead must be raised by motion to dismiss.

22 IT IS FURTHER ORDERED that, in any answer filed on the merits, respondents
23 shall specifically cite to and address the applicable state court written decision and state
24 court record materials, if any, regarding each claim within the response as to that claim.

25 IT IS FURTHER ORDERED that any state court record and related exhibits filed
26 herein by either petitioner or respondents shall be filed with a separate index of exhibits
27 identifying the exhibits by number. The CM/ECF attachments that are filed further shall

1 be identified by the number or numbers of the exhibits in the attachment. If the exhibits
2 filed will span more than one ECF Number in the record, the first document under each
3 successive ECF Number shall be either another copy of the index, a volume cover page,
4 or some other document serving as a filler, so that each exhibit under the ECF Number
5 thereafter will be listed under an attachment number (*i.e.*, Attachment 1, 2, etc.).

6 IT IS FURTHER ORDERED that the hard copy of any exhibits filed by either
7 counsel shall be delivered – for this case – to the Reno Clerk's Office, 400 S. Virginia St.,
8 Reno, NV, 89501, and directed to the attention of "Staff Attorney" on the outside of the
9 mailing address label.

10 Dated: December 1, 2017.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE